

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities, LLC

Plaintiff,

v.

WILK INVESTMENT CLUB; ELLIOT
WILK, in his capacity as General Partner of
the Wilk Investment Club; ALAN WILK, in
his capacity as Limited Partner of the Wilk
Investment Club; RUTH WILK RESIDUARY
TRUST, in its capacity as Limited Partner of
the Wilk Investment Club; RUTH WILK, in
her capacity as Limited Partner of the Wilk
Investment Club; MICHAEL SCHWARTZ, in
his capacity as Limited Partner of the Wilk
Investment Club; LONNY WILK, in his
capacity as Limited Partner of the Wilk
Investment Club; and DONALD WILK, in his
capacity as Limited Partner of the Wilk
Investment Club,

Defendants.

Adv. Pro. No. 10-04897 (SMB)

STIPULATION AND ORDER DISMISSING ADVERSARY PROCEEDING

WHEREAS, on December 2, 2010, Irving H. Picard, as trustee (“Trustee”) for the
liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under

the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* and the substantively consolidated estate of Bernard L. Madoff, commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) against Wilk Investment Club; Elliot Wilk, in his capacity as General Partner of the Wilk Investment Club; Alan Wilk, in his capacity as Limited Partner of the Wilk Investment Club; Ruth Wilk Residuary Trust, in its capacity as Limited Partner of the Wilk Investment Club; Ruth Wilk, in her capacity as Limited Partner of the Wilk Investment Club; Michael Schwartz, in his capacity as Limited Partner of the Wilk Investment Club; Lonny Wilk, in his capacity as Limited Partner of the Wilk Investment Club; and Donald Wilk, in his capacity as Limited Partner of the Wilk Investment Club (the “Defendants”) in the United States Bankruptcy Court for the Southern District of New York; and

WHEREAS, Defendants submitted to the Trustee hardship applications (the “Hardship Applications”) requesting that the Trustee agree to dismiss the Adversary Proceeding. In support of the Hardship Applications, Defendants submitted to the Trustee financial statements and other information, all under penalty of perjury; and

WHEREAS, in reliance on the representations made by Defendants in the Hardship Application and other representations and/or materials submitted by Defendant in support of the Hardship Application, the Trustee in the exercise of his due and deliberate discretion has determined to dismiss the Adversary Proceeding without prejudice;

IT IS HEREBY agreed and stipulated between the Trustee and Defendants as follows:

1. Defendants hereby affirm (i) that all representations made by Defendants and all materials provided by Defendants have been submitted by Defendants as true and correct under penalty of perjury and (ii) that the Trustee has relied upon these materials in exercising his discretion to dismiss the Adversary Proceeding without prejudice.

2. Defendants hereby agree that to the extent it is subsequently determined that Defendants deliberately or intentionally submitted materially false and/or misleading representations, statements and/or materials in connection with the Hardship Applications, the Defendants hereby agree (i) that the Trustee shall have the right to reinstitute the Adversary Proceeding against Defendants and/or pursue other remedies available to him and (ii) that Defendants agree that this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee's commencement of any such claims and notwithstanding section 546(a) of the Bankruptcy Code, Defendants hereby agree to waive any statute of limitations defense in any such actions or claims commenced by Trustee.

3. Pursuant to Fed. R. Civ. P. 41(a), made applicable by Fed. R. Bankr. P. 7041(a), the Trustee and Defendants hereby agree that upon approval of this Stipulation and Order by the Bankruptcy Court, except as set forth in paragraph 2 hereof, Trustee's claims against Defendants are dismissed without prejudice.

4. Defendants represent that they have had ample opportunity to review and discuss this Stipulation and Order with counsel and have knowingly elected not to do so.

5. This Agreement may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

6. This Stipulation and Order is subject to the approval of the Bankruptcy Court, failing which the provisions of the Stipulation and Order shall be void and of no effect.

Date: May 18, 2017

BAKER & HOSTETLER LLP By: <u>/s/ Nicholas J. Cremona</u> David J. Sheehan Nicholas J. Cremona BAKER & HOSTETLER LLP 45 Rockefeller Plaza New York, New York Telephone: (212) 589-4200 Fax: (212) 589-4201 <i>Attorneys for Irving H. Picard, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and the Estate of Bernard L. Madoff</i>	Defendants: <u>/s/ Elliot Wilk, General Partner</u> Wilk Investment Club By: Elliot Wilk, General Partner <u>/s/ Elliot Wilk</u> Elliot Wilk, in his capacity as General Partner of the Wilk Investment Club <u>/s/ Alan Wilk</u> Alan Wilk, in his capacity as Limited Partner of the Wilk Investment Club <u>/s/ Elliot Wilk</u> Ruth Wilk Residuary Trust, in its capacity as Limited Partner of the Wilk Investment Club By: Elliot Wilk, Trustee <u>/s/ Elliot Wilk</u> Ruth Wilk, in her capacity as Limited Partner of the Wilk Investment Club By: Elliot Wilk, son <u>/s/ Michael Schwartz</u> Michael Schwartz, in his capacity as Limited Partner of the Wilk Investment Club <u>/s/ Lonny Wilk</u> Lonny Wilk, in his capacity as Limited Partner of the Wilk Investment Club <u>/s/ Donald Wilk</u> Donald Wilk, in his capacity as Limited Partner of the Wilk Investment Club
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SO ORDERED:

By: /s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

Date: May 18th, 2017